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and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**In re:**

**PG&E CORPORATION**

**- and -**

**PACIFIC GAS AND ELECTRIC  
COMPANY**

**Debtors.**

- ☐ Affects PG&E Corporation  
☐ Affects Pacific Gas and Electric Company  
☒ Affects both Debtors

*\* All papers shall be filed in the Lead Case,  
No. 19-30088 (DM).*

Bankruptcy Case No. 19 - 30088 (DM)

Chapter 11

(Lead Case)

(Jointly Administered)

**EX PARTE MOTION OF DEBTORS FOR  
ORDER CONTINUING THE HEARING ON  
THE MOTIONS OF THE OFFICIAL  
COMMITTEE OF TORT CLAIMANTS AND  
THE AD HOC GROUP OF SUBROGATION  
CLAIM HOLDERS FOR RELIEF FROM  
AUTOMATIC STAY**

Related Documents: Dkt. 2863, 2904

[No hearing requested]

PG&E Corporation and Pacific Gas and Electric Company, as debtors and debtors in possession (collectively, “**PG&E**” or the “**Debtors**”) in the above-captioned chapter 11 cases, hereby submit this motion, pursuant to sections 105(a) of title 11, United States Code (the “**Bankruptcy Code**”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 9006-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Northern District of California (the “**Local Rules**”) for entry of an order continuing the hearing date of the Official Committee of Tort Claimants’ (“**Tort Claimants Committee**” or “**TCC**”) *Amended Motion for Relief from the Automatic Stay to Permit a State Court Jury Trial of the 2017 Tubbs Wildfire Claims* [Docket No. 2904] and the Ad Hoc Group of Subrogation Claim Holders’ (“**Ad Hoc Subrogation Group**”) *Motion for Relief from the Automatic Stay* [Dkt. No. 2863] (collectively, the “**Stay Relief Motions**”), so that those motions may be heard together with the Debtors’ *Motion for the Establishment of Wildfire Claims Estimation Procedures* [Dkt. No. 3091] (the “**Estimation Motion**”) on August 14, 2019, or on such other date as the Court may schedule.

In support of the Motion, the Debtors respectfully submit the Declaration of Kevin J. Orsini (the “**Orsini Declaration**”), filed contemporaneously herewith.

## **I. JURISDICTION AND VENUE**

This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § § 157 and 1334 and the *Order Referring Bankruptcy Cases and Proceedings to Bankruptcy Judges*, General Order 24 (N.D. Cal.). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. § § 1408 and 1409.

## **II. BACKGROUND**

The Tubbs Fire was the largest and most destructive of the 2017 North Bay Wildfires. According to the California Department of Forestry and Fire Protection (“**CAL FIRE**”), the Tubbs Fire burned 36,807 acres in both Napa and Sonoma Counties, destroyed 5,636 structures, damaged an additional 317 structures, and resulted in 22 fatalities.<sup>1</sup> The Tubbs Fire accounts for the largest number of potential claims against the Debtors stemming from the North Bay Fires, including the majority of

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<sup>1</sup> See CAL FIRE Report, dated January 20, 2019, <https://www.fire.ca.gov/programs/fire-protection/reports/incident-reporting-collection/>.

1 structures destroyed and/or damaged in those fires. Notably, two separate investigatory teams from  
2 CAL FIRE have ruled out PG&E equipment as a cause of the Tubbs Fire.<sup>2</sup> Nevertheless, wildfire  
3 claimants continue to assert that PG&E is responsible for starting the Tubbs Fire, and the TCC  
4 estimates that claims arising from the Tubbs Fire alone may be valued at as much as \$18 billion. All  
5 parties agree that the Debtors' liability (if any) for the Tubbs fire is a threshold issue that is critical to  
6 the resolution of these chapter 11 cases.

7           The parties have now presented competing proposals for how to address that issue. On  
8 July 2, 2019, the TCC filed its Stay Relief Motion [Docket No. 2842], seeking to permit eight specific  
9 Tubbs plaintiffs to proceed to a jury trial in California Superior Court on their property damage and  
10 related personal injury claims. On July 9, 2019, the TCC amended its Stay Relief Motion to add five  
11 additional plaintiffs. [Dkt. No. 2904] On July 3, 2019, the Ad Hoc Subrogation Group filed its own  
12 Stay Relief Motion [Dkt. No. 2863], similarly requesting leave to proceed to trial in state court on  
13 claims arising out of the Tubbs Fire. A hearing on the Stay Relief Motions has been set for July 24,  
14 2019 [Dkt. Nos. 2851, 2865].

15           On July 18, 2019, the Debtors filed their Estimation Motion [Dkt. No. 3091], a key  
16 aspect of which is a proposed evidentiary hearing to be held in this Court—not in state court—to  
17 estimate the likelihood of success of claims arising out of the Tubbs Fire. A hearing on the Debtors'  
18 Estimation Motion has been set for August 14, 2019.

### 19 **III. RELIEF REQUESTED**

20           The Estimation Motion and the Stay Relief Motions present competing views on how  
21 and where to address the likelihood of success of claims related to the 2017 Tubbs Fire, which all  
22 parties agree is a threshold issue that is central to the resolution of these cases and the Debtors' ability  
23 to emerge from chapter 11. The TCC and the Ad Hoc Subrogation Group have requested that this  
24 Court lift the automatic stay and allow 13 individual claims to be tried before a jury to reach a verdict  
25 on both causation and damages. The Debtors, on the other hand, believe that the proper and most  
26 expeditious forum for addressing the value of the thousands of claims related to the Tubbs Fire is this

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28 <sup>2</sup> See CAL FIRE Report, dated January 20, 2019,  
<https://calfire.app.box.com/s/tpml34qwp7inbr096fxfglg7broqep4/file/449219240904>.

1 Court, in which all Wildfire Claimants and other interested parties can be heard and the Court can  
2 assess the Debtors' liability for the Tubbs Fire (if any) across all associated claims. The Debtors  
3 believe that the parties' competing proposals should be considered together, and accordingly the  
4 Debtors request that the Court continue the hearing on the Stay Relief Motions filed by the TCC and  
5 the Ad Hoc Subrogation Group so that those motions may be heard on the same date as the Debtors'  
6 Estimation Motion, which is currently set for hearing on August 14, 2019.

7           Section 105(a) of the Bankruptcy Code provides that a court "may issue any order,  
8 process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy  
9 Code". 11 U.S.C. § 105(a). *See Scholl v. Felmont Oil Corp.*, 327 F. 2d 697, 700 (6th Cir. 1964) ("The  
10 granting or denial of a continuance is a matter within the discretion of the trial judge and will not be  
11 reversed on appeal unless there has been a clear abuse of discretion."). In addition, pursuant to Local  
12 Rule 9006-1, the Court may "enlarge or shorten time to perform any act". The Court has broad  
13 discretion to manage its own calendar as to matters pending before it.

14           The central issues raised in the TCC's and Ad Hoc Subrogation Group's Stay Relief  
15 Motions are also at the heart of the Debtors' Estimation Motion. In order to address the TCC's and  
16 Ad Hoc Subrogation Group's Stay Relief Motions, this Court will inevitably have to analyze and  
17 decide the best forum in which to address this issue. Indeed, the extent to which the issues presented  
18 in these motions overlap is evidenced by the fact that the TCC devotes almost ten pages of its Stay  
19 Relief Motion to a rebuttal of an anticipated estimation motion from the Debtors (which has since been  
20 filed). (*See* TCC Stay Relief Motion at 9-18.) The Court should weigh these competing proposals  
21 together, with the benefit of full briefing on both sets of motions.

22           The TCC and the Ad Hoc Subrogation Group oppose adjournment. The Ad Hoc  
23 Subrogation Group did not provide a reason. The TCC argues that adjournment is inappropriate  
24 because it claims that issues in the Stay Relief Motions overlap with issues the TCC has raised in  
25 response to the *Motion of the Ad Hoc Committee of Senior Noteholders to Terminate the Debtors'*  
26 *Exclusive Periods Pursuant to Section 1121(d)(1) of the Bankruptcy Code* [Dkt. 2741] (the  
27 "**Exclusivity Motion**"), which is also set to be heard on July 24. (*See* Orsini Decl. ¶ 8, Ex. A.) That  
28 is not compelling. The TCC seems to make this argument premised on the fact that the term sheet

1 proposed by the Ad Hoc Noteholders Committee includes references to an estimation motion. While  
2 that may be true, the Ad Hoc Noteholders Committee has not filed a motion to estimate, and the  
3 questions of how, whether and when to conduct an estimation hearing—let alone where a hearing on  
4 the Tubbs Fire should be held—are not issues that this Court needs to address in determining whether  
5 to terminate the Debtors’ exclusivity. By contrast, the Debtors’ Estimation Motion is entirely about  
6 estimation, and it is largely about the Tubbs Fire issue. So, while the TCC is correct that its Stay  
7 Relief Motion overlaps with estimation issues, that is hardly a reason to insist it be heard with a motion  
8 to terminate exclusivity as opposed to a motion for estimation.

9           Deciding the TCC’s and Ad Hoc Subrogation Group’s Stay Relief Motions separate  
10 and apart from the Debtors’ Estimation Motion would be inefficient and prejudicial to Debtors’ ability  
11 to emerge from chapter 11 prior to the June 30, 2020, legislative deadline. Accordingly, Debtors  
12 request that this Court grant this Motion to Continue.

13 **IV. NOTICE**

14           Notice of this Motion will be provided to (i) the Office of the United States Trustee for  
15 Region 17 (Attn: Andrew Vara, Esq. and Timothy Laffredi, Esq.); (ii) counsel to the Creditors  
16 Committee; (iii) counsel to the TCC; (iv) counsel to the Ad Hoc Group of Subrogation Claims Holders  
17 (v) the Securities and Exchange Commission; (vi) the Internal Revenue Service; (vii) the Office of the  
18 California Attorney General; (viii) the California Public Utilities Commission; (ix) the Nuclear  
19 Regulatory Commission; (x) the Federal Energy Regulatory Commission; (xi) the Office of the United  
20 States Attorney for the Northern District of California; (xii) counsel for the agent under the Debtors’  
21 debtor in possession financing facility; and (xiii) those persons who have formally appeared in these  
22 Chapter 11 Cases and requested service pursuant to Bankruptcy Rule 2002. The Debtors respectfully  
23 submit that no further notice is required.

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1 **V. CONCLUSION**

2 For the reasons stated herein, the Debtors respectfully request that the Court continue  
3 the hearing of the TCC's and Ad Hoc Subrogation Group's Stay Relief Motions [Dkt. Nos. 2863,  
4 2904] to be heard together with the Debtors' Estimation Motion [Dkt. No. 3091] on August 14, 2019,  
5 or on such other date as the Court may select.

6  
7 Dated: July 19, 2019

8 **WEIL, GOTSHAL & MANGES LLP**  
9 **CRAVATH, SWAINE & MOORE LLP**  
10 **KELLER & BENVENUTTI LLP**

11 /s/ Kevin J. Orsini

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